

# **COALITION PROVISIONAL AUTHORITY ORDER NUMBER 49**

## **TAX STRATEGY OF 2004**

*Pursuant* to my authority as Administrator of the Coalition Provisional Authority (CPA), and under the laws and usages of war, and consistent with relevant U.N. Security Council resolutions, including Resolutions 1483 and 1511(2003),

*Noting* the suspension by CPA Order Number 37 of all income tax for assessed income resources detailed in Article 2 of Income Tax Law Number 113 of 1982 and the real property rent tax of Law Number 162 of 1959 as amended, and all other taxes not specifically identified in Order 37 as continuing in force from April 16, 2003, to the end of calendar year 2003 and the reinstatement of these taxes on April 1, 2004, including the reinstatement of the income tax at the lower maximum rate of 15 percent,

*Noting* the desire of the Governing Council to subject both private and public sector employees to tax in order to ensure that the tax burden is shared by all sectors of Iraqi society,

*Recognizing* that these revenues are for the benefit of the Iraqi people, and

*Determined* to create conditions suited to the economic reconstruction of Iraq, including an efficient and modern income tax system,

I hereby promulgate the following:

### **Section 1 Purpose**

The purpose of this Order is to revise the tax rates and tax exemptions of Income Tax Law Number 113 of 1982, and the Real Estate Rent Tax Law Number 162 of 1959, to provide certain additional exemptions from tax, to suspend certain taxes, and to provide rules for applying unused losses against income from the same source earned in future years ("carrying forward losses") in light of the suspension of income taxes for financial year 2003 and for the first three months of financial year 2004.

### **Section 2 Increase in Allowances**

- 1) Item (1) of Article 12 of Income Tax Law Number 113 of 1982 is amended to read as follows:

"(1) A resident person shall be granted the following allowances per each year of assessment on the basis of his or her status in the year in which the income has arisen:

- a) ID 2,500,000 for the taxpayer himself (or herself, if she is unmarried (other than a widow or divorcee) or if her income is not added to her husband's income), and ID 2,000,000 for his wife, or wives, if she is a housewife and has no income or if her income is added to his income.
  - b) ID 200,000 for each of his children irrespective of their number.
  - c) ID 3,200,000 for the widow or divorcee herself and ID 200,000 for every child lawfully maintained by her, regardless of the number."
- 2) Item (5) of Article 12 of Income Tax Law Number 113 of 1982 is amended to read as follows:
- "(5) The taxpayer shall be granted an additional allowance of ID 300,000 if his age is more than 63 years of age, in addition to allowances granted to him in other sections of this Article."
- 3) The allowances as set forth in paragraphs (1) and (2) of this section shall be reduced by one-fourth during financial year 2004.

### **Section 3**

#### **Reduction in Income Tax Rates**

- 1) Item (1) of Article 13 of Income Tax Law Number 113 of 1982 is amended to read as follows:
- "(1) Tax shall be imposed on the taxpayer in respect of each year of assessment at the following rates:
- (A) Income of resident individual after granting the allowance(s) provided for in Article 12 as modified by this Order:
    - At the rate of 3% on amounts up to ID 250,000.
    - At the rate of 5% on amounts over ID 250,000 and up to ID 500,000.
    - At the rate of 10% on amounts over ID 500,000 and up to ID 1,000,000.
    - At the rate of 15% on amounts over ID 1,000,000.
  - (B) Income of non-resident individual (other than the income provided for in Article 19 of this Law).

At the rate of 3% on amounts up to ID 250,000.

At the rate of 5% on amounts over ID 250,000 and up to ID 500,000.

At the rate of 10% on amounts over ID 500,000 and up to ID 1,000,000.

At the rate of 15% on amounts over ID 1,000,000.

(C) Income of limited liability companies, at a fixed rate of 15%.

(D) Income of private joint-stock companies, at a fixed rate of 15%.

(E) Income of mixed joint-stock companies, at a fixed rate of 15%.”

(F) The amounts delineating the tax brackets as set forth in paragraphs (A) and (B) shall be reduced by one-fourth for financial year 2004.

- 2) Item (2) of Article 13 of Income Tax Law Number 113 of 1982 is amended to read as follows:

“(2) Iraqi nonresident individuals shall be subject to tax at the rates for Iraqi residents set forth in Section 3(1) of this Order on their income from Iraqi sources.”

- 3) Foreign companies that are registered in Iraq or otherwise have a permanent establishment in Iraq will be subject to tax at a fixed rate of 15% on their income in Iraq.

#### **Section 4**

#### **Exemptions**

- 1) The CPA, Coalition Forces, forces of countries acting in coordination with Coalition Forces, and departments and agencies of Coalition Forces’ governments, are not liable for any tax or similar charge within the territory of Iraq.
- 2) Governments and international organizations are not liable for any tax or similar charge within the territory of Iraq.
- 3) Foreign (non-Iraqi) employees and foreign (non-Iraqi) contractors and subcontractors of the CPA, Coalition Forces, forces of countries acting in coordination with Coalition Forces, and departments and agencies of Coalition Forces’ governments, that are providing technical, financial, logistical, administrative or other assistance to Iraq, and foreign employees of such contractors and subcontractors, shall not be liable to pay any tax on income or similar charge within the territory of Iraq on income from foreign

sources or on income from or paid on behalf of the CPA, Coalition Forces, forces of countries acting in coordination with Coalition Forces, or departments or agencies of the governments of Coalition Forces.

- 4) Foreign (non-Iraqi) employees and foreign (non-Iraqi) contractors and subcontractors of foreign (non-Iraqi) governments, international organizations, and non-governmental organizations registered pursuant to CPA Order Number 45, that are providing technical, financial, logistical, administrative or other assistance to Iraq, and foreign employees of such contractors and subcontractors, shall not be liable to pay any tax on income or similar charge within the territory of Iraq on income from foreign sources or on income from or paid on behalf of such governments, international organizations, and non-governmental organizations.
- 5) In addition to the foregoing, the following persons shall be exempt from payment of income tax:
  - a) members of foreign diplomatic missions to Iraq, as well as members of their households, if they are not citizens of Iraq;
  - b) members of consular offices, as well as members of their households, if they are not citizens of Iraq;
  - c) honorary consuls of foreign countries, but only for income received from the country that has appointed them honorary consul.
- 6) In accordance with administrative guidance to be issued by the Ministry of Finance, non-governmental organizations registered pursuant to CPA Order Number 45 and non-profit organizations that are not required to register as non-governmental organizations that are not engaged in political activities are not liable for tax on income or similar charge within the territory of Iraq.

## **Section 5**

### **Losses**

Article 11 of Income Tax Number 113 of 1982 is amended by adding new Items (3), (4) and (5) to read as follows:

“(3) Income from financial year 2003 and for the first three months of financial year 2004 shall not be taken into consideration in determining the income against which losses from preceding financial years may be deducted under this article.

(4) Financial year 2003 shall not be taken into account in determining the 5 consecutive years to which losses may be carried under this article.

(5) Losses incurred in financial year 2003 and in the first three months of financial year 2004 may not be carried forward under this article.”

## **Section 6**

### **Reduction in Real Estate Rental Rates**

The Law of the Real Estate Tax Number 162 for the year 1959 and its modifications (“the Law of Real Estate Tax”) is amended as follows:

(1) Item (1) of Article 2 of the Law of Real Estate Taxes amended to read as follows:

“(1) A tax is assessed and collected that is 10% of the annual revenue from all real estate including the subject’s living share from the real estate (other than income from sales of real estate).”

(2) Item (2) of Article 2 of the Law is deleted and Item (3) of the Law of Real Estate Tax is renumbered to Item (2).

(3) Item 1 of Article Twenty-One of the Law of Real Estate Tax is amended to read as follows:

“The tax is to be collected in two equal parts; the first is due the first of January of the financial year and the second is due the first of July of the financial year. For financial year 2004, the tax will be paid in one part and is due on 1 July 2004. The subject has the right to pay this tax at the location of his residence, his work location or in the governorate where the majority of his real estate is located. All revenue shall be combined. A memo setting forth the calculation and form should be submitted with the payment.”

(4) Item 2 of Article Twenty-One of the Law of Real Estate Tax is deleted.

(5) Item 1(b) of Article Twenty-Two of the Law of Real Estate Tax is deleted and item 1(c) is renumbered item 1(b).

(6) Article Twenty-three of the Law of Real Estate Tax is amended to read as follows:

“The tax is collected according to the Law of Governmental Secured Debt Collection and is considered a secured debt on the subject real estate.”

## **Section 7**

### **Suspension of 25% Levy on Company Profits**

- 1) Law No. 101 of 1964 Regulating the Disposal of Company Profits is hereby suspended.
- 2) Law No. 9 of 1998 Amending Law No. 101 of 1964 is hereby suspended.

### **Section 8** **Suspension of Certain Taxes Until March 31, 2004**

The following taxes are suspended from January 1, 2004, until March 31, 2004:

- 1) All income tax for assessed income resources detailed in Article 2 of Income Tax Law Number 113 of 1982, as amended; and
- 2) Real Property rent tax in accordance with Law Number 162 of 1959, as amended.
- 3) Other taxes not specifically identified, but that were suspended by CPA Order Number 37 (Tax Strategy for 2003).
- 4) The following specified taxes are not suspended and shall continue in force:
  - a) Excellent and first class hotel and restaurant tax in accordance with Resolution Number 36 of 1997;
  - b) Tax upon the transfer of real property in accordance with Resolution Number 120 of 2002;
  - c) Car sale fee in accordance with Resolution Number 80 of 1998 and previous relevant laws in force;
  - d) Petrol excise duties including, but not limited to, those provided for in Law Number 9 of 1939, Resolution Number 82 of 1996 and the Order Number 66 of 1999 issued by the Economic Affairs Committee.
- 5) The persons and entities listed in Order 37, paragraph 3(2), shall continue to be exempt from the taxes specified in paragraph 8(4), above after March 31, 2004.

### **Section 9** **Depreciation**

The System of Depreciation and Elimination for Private, Mixed and Cooperative Sectors Regulation No. 9 of 1994 is modified as follows:

- 1) Item (3) of Article 3 is modified by adding the following sentence at the end thereof:

“No part of book value shall be considered to have been cancelled during financial year 2003 and for the first three months of financial year 2004.”

- 2) New Item (5) is added to Article 3 to read as follows:

“(5) A taxpayer that used the decreased installment method listed in Item 1(b) of Article 6 during financial year 2002 will compute the depreciation deduction for financial year 2004 by reconfiguring the opening balance of each asset account as of April 1, 2004. The opening balance of each asset account as of April 1, 2004, is equal to the balance of the asset account at the end of 2002, increased by the cost of assets purchased in the asset account and decreased by the fair market value of assets sold from the asset account in financial year 2003 and during the first three months of financial year 2004.”

## **Section 10**

### **2002 Taxes**

- 1) The suspension of income taxes for financial year 2003 by CPA Order Number 37 does not affect income taxes for financial year 2002 and previous years, which remain payable by taxpayers and collectible by the Tax Commission.
- 2) In case of late payment of taxes owed for financial year 2002, a taxpayer may file a written request with the Tax Commission requesting waiver of interest and penalties. The Tax Commission may, in its discretion, upon making a good faith determination that there was reasonable cause for the late payment, waive such interest and/or penalties.

## **Section 11**

### **Government and State-Owned Enterprise Employees**

1. To ensure that the tax burden is shared by all sectors of Iraqi society, salaries, wages and allowances received by employees of the Government Offices, public and mixed sectors are subject to tax, beginning April 1, 2004. Accordingly:
  - a) The phrase in paragraph (5) of Article 2 of the Income Tax Law No. 113 of 1982 “other than those working for government offices, socialist and mixed sector companies” is deleted.
  - b) Paragraph (5) of Article 7 of the Income Tax Law No. 113 of 1982 is deleted.

2. To ensure that the Ministry of Finance has sufficient capability to accurately and comprehensively assess and collect taxes on both public and private sector employees in a transparent manner:

- a) For financial year 2004, employees of the government offices, public and mixed sectors shall be entitled to an allowance of ID 5,300,000 for themselves, spouse, and children collectively under Item (1) of Article 12 of the Income Tax Law No. 113 of 1982. If an employee of the public sector has more than 4 children, he or she shall be entitled to an additional exemption of ID 200,000 per child.
- b) The allowances as set forth in paragraph (2)(a) of this section shall be reduced by one-fourth during financial year 2004.
- c) Beginning January 1, 2005, employees of the Government Offices, public and mixed sectors shall be entitled to the same allowances as employees of the private sector, as set forth in Section 2 of this Order.

### **Section 12 Foreign Tax Credit**

Article 5 of the Income Tax Law No. 113 of 1982 is revised by adding new paragraph (4) to read as follows:

“(4) Income tax paid to a foreign country on income earned in that country may be credited against tax paid to Iraq. The amount of the credit may not exceed the amount of tax assessed in Iraq on the income earned in the foreign country at the rate in effect in Iraq. If taxes paid to a foreign country exceed the amount of this limitation then the excess taxes may be carried forward to credit in 5 consecutive years subject to the limitation in those years. The taxes paid in the carried forward year will be credited first. If, during a taxation period, income is earned in more than one country, the credit allowed by this paragraph will be applied on an individual basis to the income earned in each foreign country. To be credited, the amount of foreign tax paid to the foreign country must be confirmed by either a copy of the tax paid receipt or a confirmation of the amount of tax paid from the tax collection agency of the foreign country.”

### **Section 13 Implementation**

The Minister of Finance, in consultation with the CPA Office of Management and Budget, may issue Administrative Instructions to implement this Order.

### **Section 14**




### **Applicability**

The provisions of this Order shall apply beginning with financial year 2004, which commences January 1, 2004.

### **Section 15 Entry into Force**

This Order shall enter into force on the date of signature.

 2/20/04

L. Paul Bremer, Administrator  
Coalition Provisional Authority

## Annex I

### Impact of New Tax Rate Structure in 2005

#### One-earner Family with 4 Children

Annual Income	Current Tax	New Tax	Change in Tax
I.D.	I.D.	I.D.	I.D.
1,000,000	0	0	0
1,500,000	10,000	0	-10,000
2,000,000	95,000	0	-95,000
3,000,000	355,000	0	-355,000
5,000,000	1,115,000	0	-1,115,000
6,000,000	1,515,000	40,000	-1,475,000
9,000,000	2,715,000	475,000	-2,240,000

#### One-earner Family with 2 Children

Annual Income	Current Tax	New Tax	Change in Tax
I.D.	I.D.	I.D.	I.D.
1,000,000	0	0	0
1,500,000	35,000	0	-35,000
2,000,000	135,000	0	-135,000
3,000,000	415,000	0	-415,000
5,000,000	1,195,000	3,000	-1,192,000
6,000,000	1,595,000	85,000	-1,510,000
9,000,000	2,795,000	535,000	-2,260,000

#### Single Taxpayer with no Dependents

Annual Income	Current Tax	New Tax	Change in Tax
I.D.	I.D.	I.D.	I.D.
600,000	0	0	0
700,000	10,000	0	-10,000
750,000	15,000	0	-15,000
800,000	20,000	0	-20,000
1,000,000	55,000	0	-55,000
1,500,000	155,000	0	-155,000
2,000,000	295,000	0	-295,000
3,000,000	635,000	20,000	-615,000
5,000,000	1,435,000	295,000	-1,140,000